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8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against: Case No. 1D 2002 63023

12 JOHN HENRY MORTIMER
13 460 Kelsford
Las Vegas, NV

A C C U S A T I O N

14 Physical Therapist License No. AT 585,
15 Respondent.
16 _____

17 Complainant alleges:

18 PARTIES

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California,
21 Department of Consumer Affairs.

22 2. On or about August 12, 1981, the Physical Therapy Board of California
23 (Board) issued Physical Therapist License Number AT 585 to John Henry Mortimer
24 (Respondent). The Physical Therapist License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on July 31, 2004, unless renewed.
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2 JURISDICTION

3 3. This Accusation is brought before the Board under the authority of the
4 below mentioned statutes and regulations.¹

5 4. Section 490 of the Code states:

6 AA board may suspend or revoke a license on the ground that the licensee has
7 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
8 duties of the business or profession for which the license was issued. A conviction within the
9 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
10 contendere. Any action which a board is permitted to take following the establishment of a
11 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
12 been affirmed on appeal, or when an order granting probation is made suspending the imposition
13 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
14 Penal Code.@

15 5. Section 493 of the Code states, in pertinent part:

16 ANotwithstanding any other provision of law, in a proceeding conducted by a
17 board within the department pursuant to law to deny an application for a license or to suspend or
18 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
19 the ground that the applicant or the licensee has been convicted of a crime substantially related
20 to the qualifications, functions, and duties of the licensee in question, the record of conviction of
21 the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that
22 fact, and the board may inquire into the circumstances surrounding the commission of the crime
23 in order to fix the degree of discipline or to determine if the conviction is substantially related to
24 the qualifications, functions, and duties of the licensee in question.@

25 6. Section 2609 of the Code states:

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~ 1. All statutory references are to the Business and Professions Code (Code) unless
otherwise indicated.

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AThe board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.@

7. Section 2660 of the Code states, in pertinent part:

AThe board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

A...

A(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

A...

A(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.

A...@

of guilty, or dismissing the accusation, information, or indictment.

8. Section 2661of the Code states:

AA plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed

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2 on appeal or when an order granting probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
4 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
5 of guilty, or dismissing the accusation, information, or indictment. @

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7 9. Section 2661.5, subdivision (a) of the Code states:

8 A(a) In any order issued in resolution of a disciplinary proceeding before
9 the board, the board may request the administrative law judge to direct any
10 licensee found guilty of unprofessional conduct to pay to the board a sum not to
11 exceed the actual and reasonable costs of the investigation and prosecution of the
12 case. @

13 FIRST CAUSE FOR DISCIPLINE

14 (Conviction of a crime)

15 10. Respondent is subject to disciplinary action under sections 490, 493, 2660,
16 subdivision (d), and 2661, in that the respondent pled guilty and was convicted of grand theft of
17 personal property, in violation of Penal Code section 487 subdivision(a). The circumstances are
18 as follows:

19 11. On October 12, 2000 in a case entitled *People v. Jeannine Carole*
20 *Mortimer and John Henry Mortimer aka Ted Mortimer*, @ Ventura County Superior Court Case
21 No. 2000-103864, respondent was charged in a felony complaint with Grand Theft of Personal
22 Property in excess of \$400.00, a felony, in violation of Penal Code section 487 subdivision(a)
23 and Conspiracy to Commit a Crime, a felony in violation of Penal Code section 182, subdivision
24 (a) (1).

25 12. On January 4, 2001, respondent executed a plea agreement, in which he
26 pleaded guilty to Grand Theft of Personal Property as charged in Count I. Pursuant to said plea
27 agreement, respondent was convicted of this offense. The court sentenced respondent to 15 days

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2 in the Ventura County Jail and 36 months of Conditional Revocable Release.

3 13. The factual basis for the complaint against respondent, and his subsequent plea
4 were as follows:

5 (a) Respondent=s sister, Jeannine Mortimer was a participant in a
6 housing benefit program called ASection 8,@ administered by the Ventura County Area Housing
7 Authority (Housing Authority).

8 (b) Respondent=s mother, Valerie Mortimer, owned and resided at a
9 house located at 69 Dewey Avenue, Newbury Park (Dewey Avenue house).

10 (c) At or about the time when Jeannine Mortimer became eligible for
11 ASection 8" assistance, Valerie Mortimer purchased a condominium at 2736 Borchard Road,
12 Newbury Park (Borchard condominium). Valerie Mortimer then took residence at the Borchard
13 condo, and Jeannine Mortimer moved into the Dewey Avenue house.

14 (d) Valerie Mortimer entered into a contract with the Housing
15 Authority to rent the Dewey Avenue house to Jeannine Mortimer. Under the provisions of said
16 contract, the Housing Authority made rental assistance payments on behalf of Jeannine Mortimer
17 directly to Valerie Mortimer at the Borchard condominium address. The rental assistance was
18 conditioned on Jeannine Mortimer=s not being an owner or having any interest in the Dewey
19 Avenue house.

20 (e) Valerie Mortimer died on December 6, 1996, and the Dewey
21 Avenue house was inherited in all or in part by Jeannine Mortimer, or by the children of Valerie
22 Mortimer, including Jeannine Mortimer and respondent.

23 (f) The Housing Authority was not notified of Valerie Mortimer=s
24 death, and continued to make rental assistance payments to Valerie Mortimer. Had it been
25 notified, the Housing Authority would have suspended rental assistance payments until it was
26 determined that Jeannine Mortimer was not an owner or had no interest in the Dewey Avenue
^^ house where she resided, and for which the Housing Authrority was making rental assistance

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2 payments.

3 (g) Respondent opened a bank account in the name of Valerie
4 Mortimer Living Trust. Respondent endorsed checks made out in the name of Valerie Mortimer
5 and sent by the Housing Authority to Valerie Mortimer=s address at the Borchard condominium.
6 Jeannine Mortimer deposited said checks in the Valerie Mortimer Living Trust account. The
7 money was then spent, and some of it was used to pay the mortgage on the Dewey Avenue
8 house.

9 (h) The total amount misappropriated from the Housing Authority was
10 \$10,049.00.

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12 SECOND CAUSE FOR DISCIPLINE

13 (Corrupt or Dishonest Acts)

14 14. Respondent is subject to disciplinary action under section 2660, subdivision (l), in
15 that the respondent engaged in acts of deception, dishonesty and corruption as set forth in
16 paragraphs 10 through 13 above and incorporated here by reference.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Physical Therapy Board of California issue a
20 decision:

21 1. Revoking or suspending Physical Therapist License Number AT 585,
22 issued to John Henry Mortimer;

23 2. Ordering John Henry Mortimer to pay the Physical Therapy Board of
24 California the reasonable costs of the investigation and enforcement of this case, pursuant to
25 Business and Professions Code section 2661.5;

26 3. Taking such other and further action as deemed necessary and proper.

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DATED: February 6, 2003

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Original signed by Steven K. Hartzell
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

03575160-LA02AD2932

